S.B. CIVIL WRIT PETITION NO.732/2004

Manmal Khiwsara & anr. vs. Raghuveer Khiwsara & ors.

Date : 3.3.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. R.K. Thanvi, for the petitioners
None present for the respondents.

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Heard learned counsel for the petitioners as none present for the respondents despite service.

The petitioners' written statement, which was filed with the signatures of petitioners' advocate, has not been taken on record by the trial court and subsequently, the petitioners submitted written statement by appending his signatures.

According to learned counsel for the petitioners, the petitioners could not submit the written statement due to the death of wife of petitioner no.1 who is mother of petitioner no.2, on 13.10.2002 and funeral took place on 14.10.2002 and the case was fixed for submitting the written statement on 16.10.2002.

In the above facts, it is clear that the trial court should have allowed the petitioners to submit the written statement.

In view of the above, this writ petition is

allowed and the order dated 16.10.2002 closing the right of the petitioners to file written statement is set aside. The written statement already filed by the petitioners is taken on record.

(PRAKASH TATIA), J.

S.Phophaliya